

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KHALIL FOFANA, : 4:CV-09-1425
Petitioner : (Judge McClure)
v. : (Magistrate Judge Blewitt)
DISTRICT DIRECTOR FOR ICE, :
et al., :
Respondents :

MEMORANDUM

November 3, 2009

BACKGROUND:

On July 23, 2009, the petitioner, Khalil Fofana, formerly an inmate in the York County Prison, York, Pennsylvania, filed, through counsel, this 28 U.S.C. § 2241 petition for a writ of habeas corpus. In his habeas petition, Fofana stated that he was held in the custody of the Bureau of Immigration and Customs Enforcement (BICE) at the York County Prison for more than nine months after the termination of his federal sentence.

The petition was initially referred to United States Magistrate Judge Thomas M. Blewitt.

On September 15, 2009, Judge Sylvia H. Rambo of this court (Civil No.

1:09-CV-1092) ordered that the petitioner be released from BICE custody within thirty (30) days, noting that his ninety (90) day removal period expired on June 4, 2009 and that the respondent failed to adequately explain why removal of the petitioner has not already taken place.

Based upon Judge Rambo's order, the magistrate judge in this case filed a report and recommendation on October 7, 2009 (Rec. Doc. No. 12), recommending that the habeas petition be dismissed, as it became moot by Judge Rambo's order. The magistrate judge found that petitioner no longer has a case or controversy before this court, since he does not presently have any adverse effects regarding his prior detention by BICE due to his impending release. No objections have been filed to the report and recommendation.

We agree with the magistrate judge and will approve and adopt his report and recommendation, and dismiss the petition as moot.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge

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ORDER

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For the reasons set forth in the accompanying Memorandum,

IT IS ORDERED THAT:

1. The report and recommendation of United States Magistrate Judge Thomas M. Blewitt (Rec. Doc. No. 12, filed October 7, 2009) is approved and adopted by the court for the reasons set forth in the report and recommendation.
2. The petition for writ of habeas corpus is dismissed as moot.
3. The clerk is directed to close the case file.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge